

16 MISC 161

COPY

PREET BHARARA
United States Attorney for the
Southern District of New York
By: STEPHEN CHA-KIM
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-2768
Facsimile: (212) 637-2702
E-mail: stephen.cha-kim@usdoj.gov

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

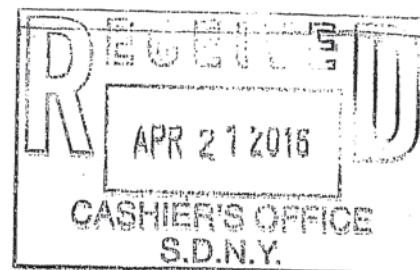
-----X
IN RE: :
:
LETTERS OF REQUEST FOR :
INTERNATIONAL JUDICIAL :
ASSISTANCE FROM THE DISTRICT :
COURT OF LUGANO-SECTION 1 IN :
LUGANO, SWITZERLAND, IN THE :
MATTER OF MASSA FALLIMENTARE :
SOGEVALOR SA, IN LIQUIDAZIONE, :
LUGANO V. ERNST & YOUNG AG, :
BASILEA, LUGANO :
-----X

DECLARATION OF
STEPHEN CHA-KIM

M 19-84

I, Stephen Cha-Kim, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an Assistant United States Attorney in the Office of the United States Attorney for the Southern District of New York, counsel for the United States of America (the "Government"). I make this declaration upon information and belief based upon the attached exhibits and communications with personnel in the United States Department of Justice, to which a letter request has been transmitted for execution. I make this declaration in support of the



Government's request, pursuant to 28 U.S.C. § 1782(a),¹ for an order appointing me as a Commissioner for the purpose of obtaining information from (1) Ernst & Young LPP, (2) Global Street Fund NV, (3) Dumont Investment, Inc., and (4) Tissera Overseas Fund NV.

2. In connection with a proceeding captioned "Massa Fallimentare Sogevalor SA, in Liquidazione, Lugano v. Ernst & Young AG, Basilea, Lugano" (the "proceeding"), and pending in the District Court of Lugano-Section 1 in Lugano, Switzerland (the "Switzerland Court"), the Switzerland Court issued a letter of request seeking information from Ernst & Young LPP. A true and correct copy of this letter of request is attached hereto as Exhibit A.

3. In connection with the proceeding, the Switzerland Court issued a letter of request seeking information from Global Street Fund NV. A true and correct copy of this letter of request is attached hereto as Exhibit B.

¹ Section 1782(a) provides, in pertinent part, as follows:

The district court of the district in which a person resides or is found may order him to give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal, including criminal investigations conducted before formal accusation. The order may be made pursuant to a letter rogatory issued, or request made, by a foreign or international tribunal or upon the application of any interested person and may direct that the testimony or statement be given, or the document or other thing be produced, before a person appointed by the court. By virtue of his appointment, the person appointed has power to administer any necessary oath and take the testimony or statement. The order may prescribe the practice and procedure, which may be in whole or part the practice and procedure of the foreign country or the international tribunal, for taking the testimony or statement or producing the document or other thing. To the extent that the order does not prescribe otherwise, the testimony or statement shall be taken, and the document or other thing produced, in accordance with the Federal Rules of Civil Procedure.

4. In connection with the proceeding, the Switzerland Court issued a letter of request seeking information from Dumont Investment, Inc. A true and correct copy of this letter of request is attached hereto as Exhibit C.

5. In connection with the proceeding, the Switzerland Court issued a letter of request seeking information from Tissera Overseas Fund NV. A true and correct copy of this letter of request is attached hereto as Exhibit D.

6. An undated draft of a subpoena addressed to Ernst & Young LPP, Legal Department, 5 Times Square, New York, NY 10036-6528, which the Government intends to serve upon my appointment as Commissioner, is attached hereto as Exhibit E.

7. An undated draft of a subpoena addressed to Global Street Fund NV, which the Government intends to serve upon my appointment as Commissioner, is attached hereto as Exhibit F.

8. An undated draft of a subpoena addressed to Dumont Investment, Inc., which the Government intends to serve upon my appointment as Commissioner, is attached hereto as Exhibit G.

9. An undated draft of a subpoena addressed to Tissera Overseas Fund NV, which the Government intends to serve upon my appointment as Commissioner, is attached hereto as Exhibit H.

10. To assist the Switzerland Court in obtaining the requested information, I respectfully request that this Court appoint me as Commissioner as proposed in the *ex parte* order attached hereto as Exhibit I. No previous application for the relief sought herein has been made.

I declare under penalty of perjury that the foregoing is true and correct to the best of my

knowledge and belief.

WHEREFORE, the United States respectfully requests that this Court enter the attached Order.

Dated: New York, New York
April 19, 2016



STEPHEN CHA-KIM
Assistant United States Attorney